

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

**FIVE HUNDRED FORTY-THREE
THOUSAND ONE HUNDRED NINETY
DOLLARS (\$543,190.00)**

IN UNITED STATES CURRENCY,

Defendant.

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CASE NO. 2:2006-CV-116-MEF

MOTION TO DISMISS

Comes now the Claimant, Enrique Alcaraz-Barajas, by and through undersigned counsel and moves this Court to dismiss this cause and as grounds therefor says as follows:

1. That the United States Currency made subject to this action was unlawfully seized from Enrique Alcaraz-Barajas on August 29, 2005.
2. Enrique Alcaraz-Barajas filed a claim with the Drug Enforcement Agency on January 3, 2006 with notice that we represented him.
3. The United States filed a Verified Complaint for Forfeiture in Rem on February 7, 2006.
4. Enrique Alcaraz-Barajas was incarcerated in the Federal Bureau of Prisons at the time the complaint was filed, however, the government failed to personally serve Enrique Alcaraz-Barajas with the complaint despite having custody of him.
5. Enrique Alcaraz-Barajas was released from the Federal Bureau of Prisons on April 4, 2006 and deported without being personally served and without the government attempting personal service as Ordered by this Court.
6. Enrique Alcaraz-Barajas inadvertently discovered that the complaint had been filed.

WHEREFORE, premises considered, the Claimant moves the Court to Dismiss this cause as he has been intentionally denied due process of law and immediately return the subject funds to him through undersigned counsel.

Respectfully submitted this 1st day of June, 2006.

S/BRUCE MADDUX
Attorney for Enrique Alcaraz-Barajas

Of Counsel:

LAW OFFICES OF BRUCE MADDUX
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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2006, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to John Harmon Asst. United States Attorney.

Respectfully submitted.

S/Bruce Maddox
Of Counsel